

SEATTLE POLICE DEPARTMENT MEMORANDUM

TO: Bob Scales
Compliance Coordinator

DATE: March 6, 2013

FROM: Kathryn Olson, Director
Office of Professional Accountability

SUBJECT: Settlement Agreement Provision Regarding Review of Policies on Reporting Misconduct

Paragraph 165 of the Settlement Agreement with the Department of Justice provides:

SPD will revise its policies, as necessary, to clarify when and how officers must report misconduct. SPD will explore ways to develop metrics to assess internal reporting of misconduct.

The subject of when and how SPD officers must report misconduct is addressed in the Seattle Police Manual Section 5.002 – Public and Internal Complaint Process. A review of this policy indicates that there is specific direction to SPD employees and supervisors about when and how they must report misconduct, though “serious misconduct” is not defined. A policy change is being made to add a definition. “Serious misconduct is defined as criminal behavior, bias-based policing, and unreasonable force.”

Current provisions in Section 5.002 that relate to when and how officers must report misconduct are:

A. Duty to intervene and to document and preserve evidence

- Duty for all employees to intervene and preserve evidence: All employees observing instances of serious misconduct or abuse shall intervene to stop the misconduct or abuse and any employee who witnesses or becomes aware of misconduct or a complaint of misconduct, shall, in all cases, take appropriate action to prevent aggravation of the incident or the loss of evidence that could prove or disprove misconduct. 5.002.II.A. and 5.002.II.C.
- Supervisors’ duty to preserve evidence in allegations of unnecessary use of force: When alleged misconduct involves unnecessary or excessive use of force, a supervisor shall photograph (if possible) any alleged injuries and areas where injuries are alleged but are not visible. The supervisor shall also report their observations regarding the presence, absence, nature, and extent of any injuries, and whether medical attention was received or sought. 5.002.V.E.

B. Duty to self report

- Duty to self report when subject of criminal process, respondent in protection order or lose driver’s license: Every employee shall report to their supervisor as soon as practical (and before the start of their next work shift) any of the following circumstances occurring in any jurisdiction: (1) They are the subject of a criminal investigation, criminal traffic citation, arrest, or conviction. (2) They are the respondent of an order of protection, restraining order, no contact order, anti-harassment order. (3) Their Washington driver’s license is expired, suspended, or revoked, or if they obtain an ignition interlock driver license...5.002.II.G.

C. Duty to assist with complaint filing

- Duty to assist and to not interfere with complaint filing: Employees have a duty to assist any person who wishes to file a complaint by taking the complaint, providing specific information on where and how to file a complaint, or by immediately putting the complainant in contact with a supervisor or other individual who can assist in filing a complaint. 5.002.II.B. and 5.002.II.D.

D. Minor misconduct or dispute regarding factual support for arrest or citation – no reporting required

- Supervisors shall take corrective action when aware of minor misconduct: Supervisory employees (sergeants and above or non-sworn equivalents) shall themselves take corrective action within the scope of their authority when they witness or become aware of employee minor misconduct. Examples of minor misconduct include, but are not limited to: (1) Lateness. (2) Uniform and equipment violations. (3) Personal appearance violations. (4) Minor omissions in assigned duties. (5) Minor violations of Department regulations concerned with job performance, efficiency, or employee safety. 5.002.IV.A.
- Factual disputes regarding support for arrest, citation or appropriateness of SPD policy are not complaints that require reporting: A dispute regarding the factual support for an arrest, citation, or the appropriateness of an established Department policy or procedure will not ordinarily be considered a public complaint. Further, it will not be subject to the public complaint reporting requirements of this section...5.002.VI.

E. Nonsupervisory employee reporting requirements for more serious misconduct

- Reporting complaints or allegations of misconduct: Each employee shall assume the obligations of their position in the reporting of complaints or allegations of misconduct against Department employees. 5.002.II.E.
- Non-supervisory duty to report complaint of misconduct and record pertinent facts; supervisor's duty to complete OPA complaint report: When a non-supervisory employee becomes aware of a complaint by a member of the public, they shall notify a supervisor...and refer the complainant to the supervisor. When a supervisor is not immediately available, the employee shall be responsible for receiving and documenting complaint(s) and providing the information to a supervisor before going off-duty. The following pertinent facts and information shall be recorded whenever a complaint is received: (1) Nature of the alleged incident. (2) Date of the alleged incident. (3) Place where the alleged incident occurred. (4) Name of employee involved or their badge number and other description. (5) Name, address, and telephone number of the complainant, aggrieved party, and all known witnesses. (6) A detailed summary of the complaint...Supervisors shall document the complaint by completing a Complaint Report (form 2.7). 5.002.V.B. and 5.002.V.C.

F. Supervisory employee reporting requirements for more serious misconduct

- Supervisors' duty to report more serious misconduct to OPA: If misconduct or an internal complaint of misconduct is of a more serious nature or is repeated minor misconduct, the supervisor shall report the matter by completing a Complaint Report (form 2.7). The Complaint Report and other related reports and documents shall be forwarded to the Office of Professional Accountability (a copy of the

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Complaint Report and related documents shall also be forwarded to the accused employee's Precinct or Section Captain or non-sworn equivalent). 5.002.IV.B.

- Supervisors' duty to send Complaint to OPA before end of duty, or to Chief if OPA personnel named: The reporting supervisor shall forward the Complaint Report with any related reports and documents directly to the Office of Professional Accountability before going off-duty, [with] a copy...to the accused employee's Precinct or Section Captain, or non-sworn equivalent. If the subject of the complaint is assigned to the Office of Professional Accountability, the report shall be forwarded to the Chief of Police or his designee. 5.002.V.F.
- Relieving employee from duty when necessary to protect the Department, the employee, or the public and duty to report to OPA: A supervisor...may relieve a subordinate employee from duty...when...relief from duty appears necessary to protect the Department, the employee, or the public. A copy of the Complaint Report (form 2.7), regarding the alleged misconduct that caused the relief from duty shall be immediately forwarded to the involved employee's Precinct or Section Captain or non-sworn equivalent, as well as to the Office of Professional Accountability. 5.002.IV.C.
- Supervisors' duty to notify commander and OPA if immediate investigation necessary: Supervisors shall notify a command level officer (lieutenant or above, or non-sworn equivalent)...where immediate investigative action by the Office of Professional Accountability may be necessary. If warranted, the command level officer shall notify OPA-IS. 5.002.V.D.

G. Reporting when supervisor is subject of the complaint

- Duty to refer complaint to different supervisor if supervisor is subject of complaint: If the supervisor is the subject of the complaint, the complaint shall be referred to another supervisor. 5.002.V.C.

H. Duty of all employees to cooperate with OPA

- Duty to cooperate and truthfully answer questions: Employees shall cooperate in a Department internal investigation of an allegation of misconduct...shall truthfully answer questions and render complete, material and relevant statements, including all facts and circumstances surrounding the subject matter of the investigation... 5.002.II.F.

In an effort to consider ways to develop metrics to assess internal reporting of misconduct, as required by the Settlement Agreement, the OPA Director plans to work with the Department to conduct a survey to measure employees' awareness of SPD's misconduct reporting requirements, whether employees identify misconduct reporting as a personal obligation, and whether employees report experiences having reported misconduct and/or willingness to report. In addition to asking for confidential responses to the survey, the OPA Director will work with the Precinct Liaisons, once they are identified, to help assess these issues on a precinct level. In the process, constraints to reporting misconduct may be discovered and will be addressed, as needed.